



California Fair Political Practices Commission

June 4, 1986

J. Robert Flandrick
Burke, Williams & Sorensen
One Wilshire Building
624 S. Grand Avenue, 11th Floor
Los Angeles, CA 90017

Re: Your Request for Advice
Our File No. A-86-146

Dear Mr. Flandrick:

This is in response to your request for advice on behalf of Ms. Jana LaPeer, an employee of the City of Baldwin Park. Ms. LaPeer sought your advice on her duties under the Political Reform Act^{1/} and you are thus requesting an "opinion"^{2/} relating to a possible conflict.

Ms. LaPeer is an "Occupancy Specialist" with the City of Baldwin Park. According to her duty statement she performs a wide variety of tasks relating to administration of the Rental Assistance Program, including but not limited to providing technical information regarding rules and regulations to owners, managers and agents; determining tenant eligibility based on income and assets; typing lease agreements and contracts; and obtaining the signatures of tenants, owners, and the Housing Authority on lease agreements.

Ms. LaPeer's family friends, Mr. and Mrs. Walt Hannah, have invited her to go on a seven-day Caribbean cruise. Mr. and Mrs. Hannah own rental property and participate in the City's Rental Assistance Program.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

^{2/} This request can be better answered by "written advice" rather than a Commission Opinion. See 2 Cal. Adm. Code Section 18329 enclosed.

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Ms. LaPeer wishes to accept their invitation but has asked if acceptance will preclude her from making decisions to some or all of the projects which come before her.

ANALYSIS

Section 87100 prohibits a public official from making or participating in a governmental decision in which she knows or has reason to know she has a financial interest.

Section 87103 provides that an official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on, among other things, any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time the decision is made.

The term "gift" means any payment to the extent that consideration of equal or greater value is not received. The term "gift" does not include gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, etc. Section 82028.

Further, the term "gift" does not include gifts exchanged between a public official and an individual other than a lobbyist, on holidays, birthdays or similar occasions. 2 Cal. Adm. Code Section 18727.

The gift of a seven-day Caribbean cruise is thus clearly a gift within the meaning of Section 87103.

Fair Political Practices Commission regulation 2 Cal. Adm. Code Section 18700 defines "public official" to mean every natural person who is a member, officer, employee or consultant of a state or local government agency. A public official "makes a governmental decision" when he or she, acting within the authority of his or her office (1) votes on a matter; (2) appoints a person; (3) obligates or commits his or her agency to any course of action; (4) enters into any contractual agreement on behalf of his or her agency; or (5) determines not to act, within the meaning of subparagraphs (1), (2), (3) or (4). 2 Cal. Adm. Code Section 18700(b).

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Further, a public official or designated employee "participates in the making of a governmental decision" when acting within the authority of his or her position, he or she (1) negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or (2) advises or makes recommendations to the decisionmaker, either directly or without significant intervening review. 2 Cal. Adm. Code Section 18700(c).

Making or participating in the making of a governmental decision does not include (1) actions of public officials which are solely ministerial, secretarial, manual or clerical (2) appearances by a public official as a member of the general public before an agency in the course of its prescribed governmental function to represent himself or herself on matters related solely to his or her personal interests; or (3) actions by public officials, employees, or employee representatives relating their compensation or the terms or conditions of their employment or contract. 2 Cal. Adm. Code Section 18700(d).

During my telephone conversation with you and Mr. Dorman Smith, you clarified the job duties and responsibilities of an "Occupancy Specialist." You indicated that this position matches qualified tenants to proposed landlords; that tenants qualify under certain preexisting criteria; and that this position does not establish or create that criteria and does not set policy. When asked if it would be possible for an Occupancy Specialist to refer tenants to a specific landlord bypassing all other available housing, you indicated that a supervisor coordinates and oversees housing availability and such a scenario could not occur.

Based on the information provided in the duty statement and in our telephone conversation of June 3, it appears the duties of Ms. Jana LaPeer are solely ministerial, secretarial, manual or clerical and do not "make or participate in the making of decisions" as defined in 2 Cal. Adm. Code Section 18700.

CONCLUSION

Since Ms. Jana LaPeer does not make or participate in the making of a governmental decision, acceptance of the cruise from family friends does not create a possible conflict of interest.

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I hope this clarifies this matter. If I can be of any further assistance, please do not hesitate to contact this office at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script that reads "Jeanette E. Turvill". The signature is written in dark ink and is positioned above the typed name.

Jeanette E. Turvill
Legal Assistant
Legal Division

JET:plh
Enclosures
cc: Ms. Jana LaPeer



California Fair Political Practices Commission

May 2, 1986

J. Robert Flandrick
Burke, Williams & Sorensen
One Wilshire Building
624 South Grand Avenue, 11th Floor
Los Angeles, CA 90017

Re: 86-146

Dear Mr. Flandrick:

Your letter requesting advice under the Political Reform Act has been received on May 1, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

Jeanette E. Turvill by *Jeb*
Jeanette E. Turvill
Legal Assistant
Legal Division

JET:plh
cc: Jana La Peer

LAW OFFICES
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ONE WILSHIRE BUILDING

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April 24, 1986

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*PROFESSIONAL CORPORATION

Barbara Milman, General Counsel
Fair Political Practices Commission
1100 K Street Building
Sacramento, California 95814

Re: City of Baldwin Park

Dear Ms. Milman:

The City of Baldwin Park has requested that I solicit an opinion from the Commission relating to a possible conflict arising out of a gift to an employee of the City. Jana La Peer is an employee of the City of Baldwin Park whose title is "occupancy specialist". I am enclosing a job description for that position for your review and information. I am also enclosing herewith the letter dated April 14, 1986 from Ms. La Peer indicating a family friendship with Mr. and Mrs. Walt Hannah. The potential for conflict arises out of the fact that Mr. and Mrs. Hannah are the owners of a number of rental dwelling units located within the City of Baldwin Park. A number of these units presently, and presumptively in the future, will be included within the City's Section 8 Rental Assistance Program. There are two positions of occupancy specialists with the City. Both of the persons holding those positions will, from time to time, have occasion to deal with owners of real property who desire to participate in this program including Mr. and Mrs. Hannah.

Assuming that Ms. La Peer accepts the gift and that the gift exceeds the threshold amount, will Ms. La Peer be precluded from making decisions with respect to some or all of the projects which come before her as a City employee?

Thank you in advance for your kind assistance.

Sincerely,



J. ROBERT FLANDRICK
for BURKE, WILLIAMS & SORENSEN

JRF:st
Enclosure

CITY OF BALDWIN PARK
Occupancy Specialist (Continued)

Knowledge of:

English usage, spelling, grammar and punctuation.

Filing and record keeping systems.

Basic interview techniques.

Community resource availability.

Ability to:

Learn, interpret, explain and apply program rules and regulations.

Communicate effectively, orally and in writing.

Prepare and maintain accurate reports and files.

Establish and maintain effective work relationships with those contacted in the performance of required duties.

Make basic mathematic computations.

Understand and carry out oral and written instructions.

Type at a rate sufficient for timely completion of required duties.

Experience and Training

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

One year of experience in a social services agency, community organization or a similar agency involving heavy public contact.

Training:

Completion of formal or informal education sufficient to assure the ability to read and write at the level required for successful job performance, supplemented by specialized clerical courses.

OCCUPANCY SPECIALIST

DEFINITION

To perform a wide variety of tasks relating to the administration of the Section 8 Rental Assistance Program.

SUPERVISION RECEIVED AND EXERCISED

Receives supervision from the Housing Programs Specialist.

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

Respond to the general public and provide information on housing and/or refer to other service agencies as appropriate.

Provide technical information regarding the rules and regulations on the Section 8 Program to existing and prospective owners, managers and agents.

Explain program and procedure to applicants; determine tenant eligibility; verify income and assets; determine tenant deductions or allowances; calculate total tenant portion; accept and review application and maintain a waiting list.

Establish and maintain files; type lease agreements and contracts, applications, addendums, and correspondences.

Type inspection booklets and schedule housing inspections.

Obtain tenant, owner and Housing Authority signatures on lease agreements and contracts; type HUD Certification Application and obtain tenant signature; complete certification of rent reasonableness.

Respond to tenant and landlord complaints by phone or letter.

Analyze and determine need for interim rent change and complete all processing necessary.

Assist in scheduling briefing sessions for Housing Programs Specialist; prepare and type briefing packets.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Modern office methods, procedures and equipment.

RECEIVED

APR 16 1986

COMMUNITY DEVELOPMENT & SERVICES

April 14, 1986

Robert Flandrick
624 Grand Avenue
Los Angeles, CA 90017

Dear Mr. Flandrick:

I am writing you this letter at the request of Ralph H. Webb, our City Manager. I have been working for the Baldwin Park Housing Authority for a total of 5 years and I was recently invited and would like to accept the invitation of Walt and Jolene Hannah to go on a 7 day Caribbean Cruise with the two of them and their 3 sons in July of this year. My family and the Hannah's have been close friends for several years and during our friendship my family has always been welcome in their home and visa versa. I consider myself and my family to be close and personal friends with the Hannah family.

Sincerely,



Jana La Peer
Occupancy Specialist
Baldwin Park Housing Authority